IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7517 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHANTUBA W/O GIRUBHA GOHIL

Versus

STATE OF GUJARAT

Appearance: MS SUBHADRA G PATEL for the Petitioner.
Mr.M.K.Patel, Assistant GOVERNMENT PLEADER,
for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/02/2003

ORAL JUDGEMENT

The petitioner-detenu has challenged her detention order dated 3.7.2002. By the impugned order, the petitioner is detained as a "bootlegger". Along with the detention order, the petitioner is served with the grounds of detention. In the said detention order, there is a reference about five criminal cases against her under the Bombay Prohibition Act. It is stated that she is preparing and selling country made liquor. The Authority, having been satisfied about the role of the petitioner, detained her by way of preventive detention.

The aforesaid order is challenged by the petitioner on various grounds.

Learned Advocate for the petitioner submitted that some documents which are annexed with the detention order and which are given to the petitioner are not legible. For that purpose, she has drawn my attention to pages 105 and 107, as well as part of the order at page 115. So far as the aforesaid documents are concerned, even the learned AGP, has frankly conceded that it is not possible for any one to read those documents. On the face of it, these documents are not legible. Under these circumstances, since some of the documents, which are annexed with the detention order and which are given to the petitioner, are not legible, the order of detention is required to be set aside on that very ground, as, the constitutional requirement is not fulfilled by the authority by not giving legible copies of the documents to the petitioner.

This petition is, therefore, required to be allowed and it is accordingly allowed. The order of detention is quashed and set aside. It is ordered that the detenu be released forthwith unless she is required in connection with any other case. Rule is made absolute.

19th February, 2003 (P.B. Majmudar, J.)

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(apj)